

**BEFORE THE
STRUCTURAL PEST CONTROL BOARD
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**

In the Matter of the Accusation Against:

Case No. 2016-3

**KILTER TERMITE AND PEST
CONTROL,
GREGORY S. MCKENDALL,
QUALIFYING MANAGER
381 West Grove Avenue
Orange, CA 92865
Company Registration Certificate No. PR
2272
Operator's License No. OPR 10496**

**Branch Office Registration No. BR 5284
41785 Enterprise Circle South
Temecula, CA 92590**

**Branch Office Registration No. BR 4912
10148 Artesia Place
Bellflower, CA 90706**

**Branch Office Registration No. BR 4962
41785 Enterprise Circle South, Unit A
Temecula, CA 92590**

Respondents.

DECISION AND ORDER

The attached Stipulated Settlement and Disciplinary Order is hereby adopted by the Structural Pest Control Board, Department of Consumer Affairs, as its Decision in this matter.

This Decision shall become effective on January 15, 2016.

It is so ORDERED December 16, 2015



FOR THE STRUCTURAL PEST CONTROL BOARD
DEPARTMENT OF CONSUMER AFFAIRS

1 KAMALA D. HARRIS
Attorney General of California
2 GREGORY J. SALUTE
Supervising Deputy Attorney General
3 ANTOINETTE B. CINCOTTA
Deputy Attorney General
4 State Bar No. 120482
600 West Broadway, Suite 1800
5 San Diego, CA 92101
P.O. Box 85266
6 San Diego, CA 92186-5266
Telephone: (619) 645-2095
7 Facsimile: (619) 645-2061
Attorneys for Complainant

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STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER

Respondents.

26 IT IS HEREBY STIPULATED AND AGREED by and between the parties to the above-
27 entitled proceedings that the following matters are true:

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PARTIES

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2 1. Susan Saylor (Complainant) is the Executive Officer of the Board. She brought this
3 action solely in her official capacity and is represented in this matter by Kamala D. Harris,
4 Attorney General of the State of California, by Antoinette B. Cincotta, Deputy Attorney General.

5 2. On or about November 1, 2001, the Board issued Operator's License Number OPR
6 10496 to Gregory S. McKendall as Branch 3 Qualifying Manager of Kilter Termite and Pest
7 Control. The Operator's License was in full force and effect at all times relevant to the charges
8 brought herein and will expire on June 30, 2016, unless renewed.

9 3. On or about June 19, 1992, the Board issued Company Registration Certificate
10 Number PR 2272 in Branch 3 to Kilter Termite and Pest Control. The Company Registration
11 Certificate was upgraded on November 29, 2006 to include Branches 2 and 3. On December 20,
12 2012, the Company Registration Certificate reflected Gregory S. McKendall as Branch 2
13 Qualifying Manager. The Company Registration Certificate was in full force and effect at all
14 times relevant to the charges brought herein.

15 4. On or about October 31, 2011, the Board issued Branch Office Registration Number
16 BR 5284 to Kilter Termite and Pest Control, with Gregory S. McKendall as Branch Office
17 Supervisor. The Branch Office Registration was in full force and effect at all times relevant to
18 the charges brought herein.

19 5. On or about January 2, 2004, the Board issued Branch Office Registration Number
20 BR 4962 to Kilter Termite and Pest Control, with Gregory S. McKendall as Branch Office
21 Supervisor. The Branch Office Registration was in full force and effect at all times relevant to
22 the charges brought.

23 6. On or about January 26, 2002, the Board issued Branch Office Registration Number
24 BR 4912 to Kilter Termite and Pest Control, with Gregory S. McKendall as Branch Office
25 Supervisor. The Branch Office Registration was in full force and effect at all times relevant to
26 the charges brought.

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1 Kilter Termite and Pest Control, Gregory S. McKendall, Company Registration Certificate
2 Number PR 2272, Operator's License Number OPR 10496, Branch Office Registration Number
3 BR 5284, Branch Office Registration Number BR 4912, and Branch Office Registration Number
4 BR 4962 are collectively referred to herein as "Respondent."

5 JURISDICTION

6 7. Accusation No. 2016-3 was filed before the Board, and is currently pending against
7 Respondent. The Accusation and all other statutorily required documents were properly served
8 on Respondent on July 20, 2015. Respondent timely filed its Notice of Defense contesting the
9 Accusation.

10 8. A copy of Accusation No. 2016-3 is attached as Exhibit A and incorporated herein by
11 reference.

12 ADVISEMENT AND WAIVERS

13 9. Respondent has carefully read, and understands the charges and allegations in
14 Accusation No. 2016-3. Respondent has also carefully read, and understands the effects of this
15 Stipulated Settlement and Disciplinary Order.

16 10. Respondent is fully aware of its legal rights in this matter, including the right to a
17 hearing on the charges and allegations in the Accusation; the right to be represented by counsel at
18 its own expense; the right to confront and cross-examine the witnesses against them; the right to
19 present evidence and to testify on its own behalf; the right to the issuance of subpoenas to compel
20 the attendance of witnesses and the production of documents; the right to reconsideration and
21 court review of an adverse decision; and all other rights accorded by the California
22 Administrative Procedure Act and other applicable laws.

23 11. Respondent voluntarily, knowingly, and intelligently waives and gives up each and
24 every right set forth above.

25 CULPABILITY

26 12. Respondent admits the truth of each and every charge and allegation in Accusation
27 No. 2016-3.

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13. Respondent agrees that its Company Registration, Branch Office Registrations and Operator license are subject to discipline and they agree to be bound by the Board's probationary terms as set forth in the Disciplinary Order below.

CONTINGENCY

14. This stipulation shall be subject to approval by the Board. Respondent understands and agrees that counsel for Complainant and the staff of the Board may communicate directly with the Board regarding this stipulation and settlement, without notice to or participation by Respondent. By signing the stipulation, Respondent understands and agrees that they may not withdraw its agreement or seek to rescind the stipulation prior to the time the Board considers and acts upon it. If the Board fails to adopt this stipulation as its Decision and Order, the Stipulated Settlement and Disciplinary Order shall be of no force or effect, except for this paragraph, it shall be inadmissible in any legal action between the parties, and the Board shall not be disqualified from further action by having considered this matter.

15. The parties understand and agree that Portable Document Format (PDF) and facsimile copies of this Stipulated Settlement and Disciplinary Order, including Portable Document Format (PDF) and facsimile signatures thereto, shall have the same force and effect as the originals.

16. This Stipulated Settlement and Disciplinary Order is intended by the parties to be an integrated writing representing the complete, final, and exclusive embodiment of their agreement. It supersedes any and all prior or contemporaneous agreements, understandings, discussions, negotiations, and commitments (written or oral). This Stipulated Settlement and Disciplinary Order may not be altered, amended, modified, supplemented, or otherwise changed except by a writing executed by an authorized representative of each of the parties.

17. In consideration of the foregoing admissions and stipulations, the parties agree that the Board may, without further notice or formal proceeding, issue and enter the following Disciplinary Order:

DISCIPLINARY ORDER

IT IS HEREBY ORDERED that Company Registration Certificate Number PR 2272,
Operator's License Number OPR 10496, Branch Office Registration Number BR 5284, Branch

1 Office Registration Number BR 4912, and Branch Office Registration Number BR 4962 are
2 revoked. However, the revocations are stayed, and Respondent is placed on probation for three
3 (3) years on the following terms and conditions.

4 1. **Obey All Laws.** Respondent shall obey all Federal, State and local laws along with
5 all laws and rules relating to the practice of structural pest control.

6 2. **Quarterly Reports.** Respondent shall file quarterly reports with the Board during
7 the period of probation.

8 3. **Tolling of Probation.** Should Respondent leave California to reside outside this
9 state, Respondent must notify the Board in writing of the dates of departure and return. Periods
10 of residency or practice outside the state shall not apply to reduction of the probationary period.

11 4. **Notice to Employers.** Respondent shall notify all present and prospective employers
12 of the decision in case no. 2016-3. and the terms, conditions and restriction imposed on
13 Respondent by said decision.

14 Within 30 days of the effective date of this decision, and within 15 days of Respondent
15 undertaking new employment, Respondent shall cause his/her employer to report to the Board in
16 writing acknowledging the employer has read the decision in case No. 2016-3.

17 5. **Notice to Employees.** Respondent shall, upon or before the effective date of this
18 decision, post or circulate a notice to all employees involved in structural pest control operations
19 which accurately recite the terms and conditions of probation. Respondent shall be responsible
20 for said notice being immediately available to said employees. "Employees" as used in this
21 provision includes all full-time, part-time, temporary and relief employees and independent
22 contractors employed or hired at any time during probation.

23 6. **Posted Notice of Suspension.** Respondent Kilter Termite and Pest Control shall
24 prominently post a suspension notice provided by the Board of the Board's order of suspension at
25 its principal office and each of its branch offices in a place conspicuous and readable to the
26 public. Said notice shall remain so posted during the entire period of actual suspension.

27 7. **Completion of Probation.** Upon successful completion of probation, Respondent's
28 license/certificate will be fully restored.

1 8. **Violation of Probation.** Should Respondent violate probation in any respect, the
2 Board, after giving Respondent notice and an opportunity to be heard, may revoke probation and
3 carry out the disciplinary order which was stayed. If a petition to revoke probation is filed against
4 Respondent during probation, the Board shall have continuing jurisdiction until the matter is
5 final, and the period of probation shall be extended until the matter is final.

6 9. **Suspension and Civil Penalty.** Company Registration Certificate Number PR 2272,
7 Operator's License Number OPR 10496, Branch Office Registration Number BR 5284, Branch
8 Office Registration Number BR 4912, and Branch Office Registration Number BR 4962 are
9 suspended for five consecutive days beginning on the effective date of this decision, unless prior
10 to the effective date of this decision, Respondents pay a civil penalty in the amount of \$1,000.00
11 to the Board. If this civil penalty is not paid to the Board before the effective date of this
12 decision, Company Registration Certificate Number PR 2272, Operator's License Number OPR
13 10496, Branch Office Registration Number BR 5284, Branch Office Registration Number BR
14 4912, and Branch Office Registration Number BR 4962 shall be suspended for five consecutive
15 days beginning on the effective date of this decision.

16 10. **Correspondence Course – Rules and Regulations.** Within six (6) months of the
17 effective date of this decision, Respondent Gregory S. McKendall shall complete four (4) hours
18 of a Board approved Rules and Regulations course with a final grade of C Minus (C-) or better.
19 These hours cannot be used towards renewal of Operator License No. OPR 10496.

20 11. **Random Inspections.** Respondent shall reimburse the Board for one random
21 inspection per quarter by Board specialists during the period of probation not to exceed \$125 per
22 inspection.

23 12. **Prohibited from Serving as Officer, Director, Associate, Partner or Qualifying**
24 **Manager.** Respondent is prohibited from serving as an officer, director, associate, partner,
25 qualifying manager or branch office manager of any registered company other than Kilter
26 Termite and Pest Control during the period that discipline is imposed on Company Registration
27 Certificate No. PR 2272. Prior to the effective date of this decision, Respondent shall designate a
28 Field Representative or Operator other than Respondent Gregory S. McKendall to serve as branch

1 office supervisor for at least two of Respondent's branch offices for the period of probation.

2 13. **Restoration Bond:** Pursuant to Business and Professions Code section 8697.3,
3 Respondent, as a condition to the restoration of the company registration and branch office
4 registrations, file a surety bond in the sum of \$2,000.00 due no later than the last day of
5 suspension.

6 14. **Cost Recovery:** Respondent shall reimburse the Board its costs of investigation and
7 enforcement in the amount of \$3,196.58. These costs may be paid in monthly installments as
8 agreed by the Board and shall be paid in full no later than three months prior to the end of
9 probation. Probation shall not be terminated until all costs are paid in full.

10 ACCEPTANCE

11 I have carefully read the Stipulated Settlement and Disciplinary Order. I understand the
12 stipulation and the effect it will have on my Company Registration Certificate, Operator's
13 License, and Branch Office Registrations. I enter into this Stipulated Settlement and Disciplinary
14 Order voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order
15 of the Structural Pest Control Board.

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17 DATED: 9/15/15


18 GREGORY S. McKENDALL
19 KILTER TERMITE AND PEST CONTROL
20 Respondent

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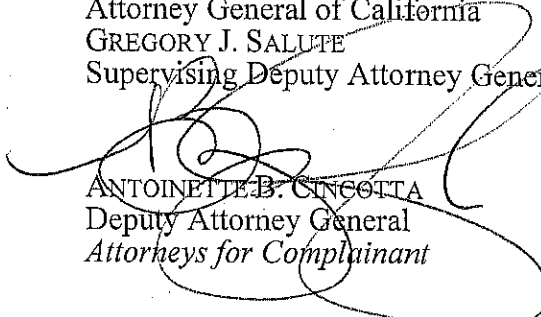
ENDORSEMENT

The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully submitted for consideration by the Structural Pest Control Board.

Dated: 9/17/2015

Respectfully submitted,

KAMALA D. HARRIS
Attorney General of California
GREGORY J. SALUTE
Supervising Deputy Attorney General


ANTOINETTE B. CINCOITTA
Deputy Attorney General
Attorneys for Complainant

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